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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

DMR

YESENIA GUITRON; and JUDI KLOSEK,

CASE NO.

**10 3461**

Plaintiffs,

**COMPLAINT AND DEMAND FOR A  
JURY TRIAL**

v.

WELLS FARGO BANK, N. A.; PAM RUBIO;  
and DOES 1-20,

Defendants.

1. Wrongful Discharge in Violation of Public Policy;
2. Discrimination in Violation of Title VII;
3. Retaliation in Violation of Title VII;
4. Failure to Prevent Discrimination in Violation of Title VII;
5. Discrimination in Violation of FEHA;
6. Retaliation in Violation of FEHA;
7. Harassment in Violation of FEHA; and
8. Failure to Prevent Discriminatory Practices in Violation of FEHA.

**I. INTRODUCTION**

1. This is an action brought by Plaintiffs YESENIA GUITRON ("Guitron") and JUDI KLOSEK ("Klosek") (collectively, Guitron and Klosek are referred to herein as "Plaintiffs") against Defendants WELLS FARGO BANK, N. A. ("Wells Fargo"), PAM RUBIO ("Rubio"), and DOES 1-20 (all defendants are collectively herein referred as "Defendants") in connection with claims arising from Plaintiffs' employment with Wells Fargo.

1           2.       This action is predicated upon Wells Fargo's unlawful and unfair marketing  
2 practices that were implemented by Rubio at the branch she is managing for Well Fargo.  
3 Plaintiffs both refused to engage in those marketing practices and complained about those  
4 practices both internally and outside of Wells Fargo. As a result, Plaintiffs have suffered, and  
5 continue to suffer, from harassment and retaliation by various Wells Fargo managers.

6           3.       Wells Fargo set forth unreasonably aggressive and ambitious marketing goals to  
7 its employees and managers through the implementation of the Daily Solution reward system.  
8 Consequently, the Daily Solution reward system fosters employees and managers at Wells  
9 Fargo to artificially increase bank activity and sell financial products to customers regardless of  
10 the need of those products and in breach of ethical and statutory duties owed by Wells Fargo to  
11 its customers. Further, the implementation of the Daily Solution reward system by Wells  
12 Fargo also encourages its employees and managers to engage in fraudulent and even criminal  
13 activity, as well as it incentivizes managers to retaliate and harass employees that complain on  
14 those activities or discipline employees that refuse to engage in those activities for not meeting  
15 marketing goals.

16           4.       Plaintiffs suffered from the product of Wells Fargo's unlawful practices and  
17 bring this action to seek remedy for their grievances as set forth hereinunder.

## 18 **II. JURISDICTION**

19           5.       This action arises under Title VII of the Civil Rights Act of 1964 42 U.S.C.  
20 §2000e, *et seq.* ("Title VII"). This Court has original jurisdiction over Plaintiffs' claims  
21 pursuant to 28 U.S.C. §1331. This Court has supplemental jurisdiction over the California  
22 Government Code ("Gov't Code") claims pursuant to 28 U.S.C. §1367.

## 23 **III. VENUE**

24           6.       Venue is proper in the United States District Court, Northern District of  
25 California, pursuant to 28 U.S.C. §1391, because Wells Fargo conducts business in this district  
26 and a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in  
27 this district.

## 28 **IV. PARTIES**

          7.       Guitron is and at all relevant times was a resident of the City of Napa,  
California. Guitron was hired by Wells Fargo as a Personal Banker, Grade I, and worked in  
the St. Helena branch ("St. Helena" or the "St. Helena branch") in that capacity from March

1 2008 through her termination in January 2010. At all times relevant to this Complaint, Guitron  
2 was an employee within the meaning of Title VII.

3 8. Klosek is and at all relevant times was a resident of the City of Napa, California.  
4 Klosek was hired by Wells Fargo as a Licensed Personal Banker, Grade II, for the Sonoma  
5 branch of Wells Fargo (the "Sonoma branch") in September 2008. Klosek worked in that  
6 capacity until June 2009 when she was transferred to the St. Helena branch where she  
7 continues to be employed. At all times relevant to this Complaint, Klosek was an employee  
8 within the meaning of Title VII.

9 9. Wells Fargo is a financial institute and is, upon information and belief, based in  
10 South Dakota. Wells Fargo is a subsidiary of Wells Fargo & Company. Wells Fargo is, and at  
11 all times relevant hereto has been, authorized to, and does, conduct business in the State of  
12 California. Wells Fargo maintains numerous branches and offices in California wherein it has  
13 engaged in wrongful conduct against Plaintiffs. Wells Fargo was at all relevant times an  
14 employer within the meaning of Title VII.

15 10. Rubio is and was at all relevant times the St. Helena branch Manager of Wells  
16 Fargo and lives in Rutherford, California. Rubio supervised Klosek and Guitron at the times  
17 they were employed at the St. Helena branch. At all relevant times to this Complaint, Rubio  
18 was an "agent of" Wells Fargo, and as such was an employer within the meaning of Title VII.

19 11. Does 1-20 are defendants whose names are unknown and who shall be named  
20 once their identities are ascertained. Upon information and belief, Defendants are agents of the  
21 others and they are all managed and controlled by the same individuals and had and/or have the  
22 same policies and practices with regard to the employment of Plaintiffs. The true names and  
23 capacities, whether individual, corporate, associate or otherwise, and the true involvement of  
24 defendants sued herein as Defendants Does 1-20, are unknown to Plaintiffs who therefore sue  
25 said defendants by such fictitious names and will amend this Complaint to show the true  
26 names, capacities and involvement when ascertained. Plaintiffs are informed and believe and  
27 thereon allege that each of the defendants designated as a Doe is responsible in some manner  
28 for the events and happenings herein referred to, and that Plaintiffs' injuries and damages as  
hereinafter set forth were proximately caused by said Defendants. Plaintiffs are informed and  
believe and thereon allege that at all times herein mentioned, each of the Defendants sued

1 herein was the agent and/or employee of each of the remaining Defendants, and each of them,  
2 was at all times acting within the purpose and scope of such agency and employment.

3 **V. FACTUAL ALLEGATIONS**

4 **A. The Daily Solutions Reward System at Wells Fargo**

5 12. Wells Fargo provides financial-based incentives to all Personal Bankers for  
6 inducing clients and potential clients to open, respectively, additional or new accounts, as well  
7 as utilize other financials products and services offered by the bank such as ATM cards, credit  
8 cards, checks, saving accounts and brokerage accounts. Each new or additional financial  
9 product that is sold by a banker to a customer is counted by Wells Fargo as a Daily Solution.  
10 The various financial products have a different "value" of Daily Solutions that is based on its  
11 internal value to Wells Fargo.

12 13. Daily Solutions' incentives were provided to Wells Fargo employees for the  
13 performance of not only the individual banker but also at the branch and even the region level.  
14 All Personal Bankers are obligated to secure a quota of Daily Solutions, and if a Personal  
15 Banker fails to meet his or her quota on any given day, the next day's quota could be increased  
16 or other disciplinary measures could be taken against that banker. If a Personal Banker meets  
17 the quota of Daily Solutions, he or she receives incentive-based bonus compensation  
18 accordingly.

19 14. Similarly, Wells Fargo branches and regional managers have a quota of Daily  
20 Solutions in such that both the employees' and the management team's performance is  
21 measures through the success in meeting or exceeding those quotas by earning financial  
22 incentives or be subjected to disciplinary actions as a result.

23 15. Rubio was primarily responsible for implementing the Daily Solutions incentive  
24 program at the St. Helena branch. As part of her duties and responsibilities, Rubio has the  
25 exclusive discretion in deciding which Personal Bankers would get referrals of prospective  
26 new or existing customers that would likely lead that banker to earn or exceed the quota of  
27 Daily Solutions.

28 16. Rubio required the bankers of the St. Helena branch to "solution driven" where  
the focus was the number of Daily Solutions obtained by each member of the branch's team  
regardless of the quality of the financial products sold to customers, the need of those  
customers to those products and the method by which those solutions were obtained.

1           17. Upon information and belief, Rubio's "solution driven" approach in the  
2 management of her employees' performance is based upon Wells Fargo's banking practices  
3 that are focused on profit-generating activity on the expense of its employees and customers.

4           **B. Factual Allegations Pertaining to Guitron**

5               **1. Guitron Refused to Engage and Complained about Unlawful and**  
6               **Fraudulent Practices**

7           18. Guitron is a single mother of two and the sole provider for her family.

8           19. Wells Fargo hired Guitron in March 2008 as a Personal Banker, Grade I.  
9 Guitron worked in that capacity in the St. Helena branch for the entirety of her employment  
10 with Wells Fargo. Her direct supervisors were Rubio and Isook Park, St. Helena's Operation  
11 Manager ("Park").

12           20. As a Personal Banker, Grade I, Guitron provided banking services to bank  
13 customers, including, but not limited to, seeking out for new customers, servicing existing  
14 customers, and processing loans. Particularly, Guitron was required to seek out to open new  
15 accounts for new customers and seek out to open additional accounts for existing customers.

16           21. Guitron informed Rubio during her job interview that she has extensive  
17 experience working with customers and that she is "relationship driven" rather than "solution  
18 driven". Rubio told Guitron that this is not a problem and that in fact the branch needed  
19 bankers like her.

20           22. Guitron excelled in her capacity as a Personal Banker. She was voted  
21 Employee of the Month three times and was selected by the customers as their favorite banker  
22 multiple times. Guitron had no personnel or disciplinary warnings from Wells Fargo until she  
23 raised concerns about fraudulent and unethical banking activities in March 2009.

24           23. In June 2008, approximately two months after she started at Wells Fargo,  
25 Guitron began to notice irregular sales activities with regard to the implementation of the Daily  
26 Solutions program. At that time, several of Guitron's complained that another Personal Banker  
27 at the St. Helena's branch, Corina Zavaleta ("Zavaleta"), was opening and/or closing accounts  
28 without their permission. Alarmed by this activity, Guitron called Judy Bowman who served  
as her bank-trainer and assisted her with addressing work-related questions, to discuss these  
activities. Ms. Bowman informed Guitron that she should first contact her manager and, if the  
problems persisted, she should then contact Wells Fargo's Ethics Hotline.

1       24. On or about March 3, 2009, Guitron made her first complaint to Rubio about  
2 Zavaleta's banking practices. Specifically, Guitron told Rubio that she received numerous  
3 complaints from customers about paying service charges when Zavaleta had promised them  
4 outright that accounts she sold them were free of service charges. In a follow up email sent  
5 that day, March 3, 2009, Guitron alerted Rubio again that various customers have complained  
6 to her that Zavaleta promised them a "free bank account" as an incentive to open new accounts  
7 that ultimately resulted in the accrual of Daily Solutions by Zavaleta for those accounts.

8       25. Between March and August 2009, Guitron continued to raise concerns with  
9 Rubio about irregular and unlawful banking practices of Zavaleta. Guitron specifically  
10 complained about Zavaleta's consistent "gaming" of the Daily Solutions system at the expense  
11 of her clients through actions like closing and opening of accounts without clients' consent for  
12 the sole purpose of receiving credit for Daily Solutions, opening accounts without the consent  
13 or authorization of the prospective clients, providing partial or all funds to clients so that they  
14 meet the minimum requirement to open a bank account. Despite her consistent communication  
15 of customer complaints about Zavaleta to Rubio, Guitron witnessed no change in the conduct  
16 or management of Zavaleta.

17       26. In August 2009, Rubio and Park asked to meet with Guitron and the meeting  
18 took place on or about August 19, 2009. During this meeting, Guitron was asked by Park if  
19 she felt Wells Fargo managers were taking her complaints seriously. When Guitron responded  
20 "no," she was accused by Park and Rubio of harassing Zavaleta and having an affair with a  
21 coworker. Guitron left the meeting feeling humiliated, harassed and retaliated against by Park  
22 and Rubio. Further, as yet another mean of retaliation, on or around August 25, 2009, Guitron  
23 received a negative performance review by Rubio when all of her previous performance  
24 reviews were positive.

25       27. The management team at the St. Helena branch refused to take any steps to  
26 investigate or curtail the conduct of Zavaleta, therefore, on or about August 26, 2009, Guitron  
27 called the Ethics Hotline to express her ongoing concerns about Zavaleta's irregular and  
28 unlawful activities.

      28. On or about August 27, 2009, Guitron emailed Greg Morgan, the Regional  
Manager of Wells Fargo, to express concerns about Rubio's and Park's accusation during the  
August 19, 2009, that she was harassing Zavaleta. In response to this email, Guitron was first



1 reprimanded by Mr. Morgan for failing to "follow the proper chain of command" before  
2 contacting him and was also accused of making false accusations about Diana Brandenburg,  
3 who was a Human Resources Manager of Wells Fargo at that time. Mr. Morgan gave no  
4 response to the actual concerns expressed by Guitron.

5 29. The harassment against Guitron escalated through September 2009 when  
6 Guitron became the sole employee that was required to make written requests to pick up her  
7 daughter from school during her meal and rest breaks and later was subjected to an alternative  
8 meal and rest break schedule for her request. Other employees that picked up their children  
9 during their breaks were not subjected to the same requirements or an alternative break  
schedule such as Guitron.

10 30. Additionally, Guitron was regularly marked up as tardy, if she arrived a few  
11 minutes after 9:00 a.m. whereas other employees were not reprimanded in any fashion for  
12 being similarly tardy.

13 31. On or about October 9, 2009, upon an instruction given by Rubio, Park  
14 demanded that Guitron notarize the signature of a person while that person who was not  
15 present at the branch that time. Specifically, Guitron was instruction to notarize an affidavit  
16 for a domestic partnership that was purportedly signed by the partner of Kelly Beglin, a teller  
17 at the St. Helena branch at that time. Ms. Beglin's partner was not present at the St. Helena  
18 branch, nevertheless, Park demand that Guitron notarize the document, Guitron refused to  
19 engage in this unlawful activity and was faced with retaliatory and abusive conduct by Park  
and Rubio as a result of that.

20 32. As no response had come to her previous complaints, on or about October 14,  
21 2009, Guitron requested an official meeting with Ms. Brandenburg regarding the fraudulent  
22 banking practices going on at the St. Helena branch. During this meeting, Guitron specifically  
23 reported to Ms. Brandenburg the following practices were not only commonplace, but were  
openly tolerated by branch management:

24 a. falsification of customers' identification and using falsified  
25 documentation to open new bank accounts and earn Daily Solutions;

26 b. falsification of background information about customers so they will  
27 become eligible for banking products, and thus earning the bankers with more Daily Solutions;

28 c. closing and opening accounts without consent or authorization of the

1 customers so that bankers could earn more Daily Solutions;

2 d. falsifying bank documents in order to receive sales credit and qualify for  
3 incentive payout;

4 e. paying customers for opening-deposits to be deposited in accounts that  
5 were opened at the Hispanic Farmer's Camps workshops in order to encourage people to open  
6 accounts and thus earn more Daily Solutions;

7 f. the October 9, 2009 incident in which Park demanded Guitron to  
8 notarize a signature on an official document wherein the signatory was not present at the  
9 branch at that time;

10 g. that Rubio was supporting and encouraging Zavaleta's practice of  
11 fraudulently earning Daily Solutions; and

12 h. that Rubio and Park were retaliating against her for complaining about  
13 Zavaleta's activities, *inter alia*, by receiving a negative performance review by Rubio shortly  
14 after the August 19, 2009, meeting with Rubio and Park and by making false accusations that  
15 she was having an affair with her co-worker.

16 33. Ms. Brandenburg refused to respond to the complaints lodged by Guitron at the  
17 aforementioned meeting or provide Guitron with any follow up information about her  
18 complaints. As such, Guitron sent an email to Felix Fernandez, the Regional President of  
19 Wells Fargo, on those complaints, on October 24, 2009. In this email, Guitron stated the  
20 aforementioned ethical violations and fraudulent activities she believed were commonplace, if  
21 not encouraged, at the St. Helena branch. Guitron also sought Mr. Fernandez's intervention  
22 because she had not received responses from either Mr. Morgan or Ms. Brandenburg on her  
23 complaints.

24 34. Furthermore, despite the numerous complaints and concerns raised regarding  
25 the conduct of Zavaleta, in November 2009, Zavaleta was selected by Rubio to be the  
26 Employee of the Month at the St. Helena branch.

27 35. On or about November 10, 2009, Guitron again witnessed the falsification of  
28 information in order to obtain Daily Solution by an Assistant Manager at St. Helena branch,  
Mary Crisp. On that day, a customer presented Guitron with an expired Mexican identification  
document, a Mexican Metricula card, in order to open a new bank account. Upon serving that  
customer, Guitron also noticed that over 30 other accounts and services were provided to this



1 customer by Zavaleta in the past. Wells Fargo policies do not allow bankers to open a new  
2 bank using an expired identification document, therefore, Guitron executed herself and went to  
3 inform Ms. Crisp of the situation. Ms. Crisp nevertheless proceeded to open the bank account  
4 by falsifying the expiration date on the banking records because the branch was “hurting” for  
5 solutions that time.

6 36. Guitron followed up and reported the incident with Ms. Crisp to the Ethics  
7 Hotline, and then emailed Park about this situation. Park did not respond to this email in any  
8 way nor did she take any further steps to investigate the situation or discipline Park or Zavaleta  
9 for violating Wells Fargo policies.

10 37. On or about November 13, 2009, and after many requests were made by Guitron  
11 subsequent to the October 14, 2009 meeting, Ms. Brandenburg met with Guitron to address her  
12 complaints of retaliation by Rubio and the increasing instances of unethical sales practices. In  
13 this meeting, Guitron again raised concerns that she was being retaliated against for making  
14 complaints about fraudulent banking activities. Ms. Brandenburg was very combative and  
15 defensive with Guitron about the complaints, and specifically made up excuses for the  
16 employees on which Guitron complained about. Finally, in response to Guitron’s request that  
17 the matters be investigated, Ms. Brandenburg responded that she will be researching those  
18 matters but she is not able to tell Guitron how long it will take her to complete her “research”.

19 38. While Guitron was guaranteed confidentiality about the content of their  
20 discussions, a few days after the confidential meeting, Rubio called Guitron shortly after the  
21 meeting with Ms. Brandenburg and informed her that she was not being retaliated against. As  
22 such, Guitron is informed and believes that Ms. Brandenburg specifically discussed the  
23 complaints made by Guitron with Rubio.

24 39. On or about November 17, 2009, Mr. Morgan finally agreed to meet Guitron on  
25 her complaints. At the beginning of this meeting Mr. Morgan advised Guitron that he is fully  
26 aware of her complaints and what has been going on at the St. Helena branch. However, rather  
27 than acknowledge and address the serious allegations made by Guitron, Mr. Morgan accused  
28 her of being “obsessed” with focusing on other employees. Mr. Morgan then made a veiled  
threat that she should not report other employees’ activities as it would be “bad” for her  
employment with Wells Fargo, and informed her that from that day forward she was to just  
focus on her own and stop worrying about what other employees were doing.

1           40. When Guitron returned to the St. Helena branch after her meeting with Mr.  
2 Morgan, she learned that Zavaleta has resigned. Guitron is informed and believes that Zavaleta  
3 resigned at the suggestion of Rubio and Mr. Morgan, in order to avoid investigation by Wells  
4 Fargo or third parties of the unlawful activities at the St. Helena branch.

5           41. On or about December 14, 2009, Damian Brown, a Human Resources  
6 representative of Wells Fargo, asked Guitron to attend a telephone conference regarding the  
7 complaint lodged against Ms. Crisp for falsifying documents. Rubio insisted on sitting in on  
8 the teleconference and asking questions about the November 10, 2009, incident regarding Ms.  
9 Crisp. Guitron stated during the teleconference that she was uncomfortable with Rubio's  
10 presence and the fact that her complaint was being handled over the phone. Guitron's concerns  
11 were ignored and as such, she reiterated her original complaint that Ms. Crisp had falsified  
12 bank documents in order to gain Daily Solutions. After the teleconference Guitron emailed her  
13 formal statement to Mr. Brown. Guitron was never advised on the results of this investigation  
14 one way or the other and Guitron is informed and believes that no further investigation was  
15 conducted by Wells Fargo on this matter.

16           42. On December 26, 2009, Guitron emailed Rubio again expressing concerns  
17 about the investigation into the conduct of Zavaleta and whether any follow up would be made  
18 to on her various complaints. On or about, January 2, 2010, Rubio responded by stating that  
19 she had no knowledge of *any* pending investigation into Zavaleta's conduct and made no  
20 attempts to address the rest of Guitron's concerns.

21           43. On or about January 2, 2010, the St. Helena branch hosted a "friends and family  
22 day" event in an effort to obtain new customers. As part of the "friends and family day"  
23 customers were given the opportunity to select the Employee of the Month for that month.  
24 Despite the ongoing harassment and retaliation she was suffering, the customers selected  
25 Guitron to be Employee of the Month, evidencing her excellent customer relations and high  
26 level of performance. Nevertheless, Chris Jensen, the Customer Service Manager of the St.  
27 Helena branch at that time, told Guitron that very day that if she did not bring in at least three  
28 new checking accounts *on that day* she would be "singled out and embarrassed" by  
management in front of her coworkers.

          44. On or about January 12, 2010, Guitron was interviewed by Jodi Jacques, a  
Human Resources Consultant for Wells Fargo, upon the request of the later. Ms. Jacques

1 informed Guitron that the purpose of the meeting was to discuss the atmosphere at the St.  
2 Helena branch. Ms. Jacques also informed Guitron that this meeting was not part of any  
3 official investigation. In this meeting, Guitron informed Ms. Jacques that she had concerns on  
4 the following: (1) fraudulent banking practices at the St. Helena branch; (2) management's  
5 refusal to investigate complaints about these practices; and (3) management's retaliation  
6 against her for raising these complaints. Rather than address any of these issues, Ms. Jacques  
7 told Guitron that she should focus on her own work and also suggested that the problem was  
8 with Guitron and that perhaps she is not a "good fit" for Wells Fargo. Guitron received no  
9 follow up and was never informed that any investigation into her complaints took place as a  
10 result of her meeting with Ms. Jacques.

11 45. In or around January 2010, in further retaliation for Guitron's ongoing  
12 complaints of unethical conduct, Rubio began contacting Guitron's customers to question them  
13 about Guitron's work and look for flaws or bad conduct on the part of Guitron.

14 46. On or about January 15, 2010, having received no response from Ms.  
15 Brandenburg since the November 13, 2009, meeting and no response from Mr. Morgan since  
16 the November 17, 2009 telephone call, Guitron contacted Susan Eagles-Williams, the District  
17 Head of Wells Fargo Human Resources via email and made her aware of the situation.

18 47. On January 26, 2010, Ms. Eagles-Williams requested a teleconference with  
19 Guitron about the emails sent to her on January 15, 2010.

20 48. The next day, January 27, 2010, Guitron realized that her access to the Wells  
21 Fargo computer system was blocked unbeknownst to her. Immediately thereafter Guitron was  
22 called for a meeting by Rubio at which she was terminated by Rubio for insubordination.  
23 Guitron was specifically told at that meeting to immediately turn in her keys, clear out her desk  
24 and was escorted by management out of the bank.

25 49. A few days after her termination Guitron requested that she be given access to  
26 the branch to take her possession because she was terminated. In response, Guitron was  
27 informed by Hale Walker, the District Manager overseeing the St. Helena branch ("Walker"),  
28 that she was merely placed on administrative leave and that the alleged termination was a  
"misunderstanding." Guitron informed Walker that she did not believe that her termination  
was a "misunderstanding" because Rubio never informed her that she is placed on an  
administrative leave and she was directly instructed her to clean out her desk and then escorted

1 off the premises. In response, on February 12, 2010, Walker sent her a letter stating that she  
2 had "voluntarily resigned" as of February 11, 2010.

3 50. At various times during 2009, Guitron made complaints to Wells Fargo on  
4 fraudulent and unlawful practices at the St. Helena branch that included but were not limited to  
5 the following:

- 6 a. opening checking, savings, money market, or credit card accounts for  
7 customers without their knowledge or consent;
- 8 b. providing false information on applications for banking products;
- 9 c. unlawfully opening accounts over the phone;
- 10 d. soliciting elderly or otherwise vulnerable customers to open accounts or  
11 take out additional equity lines of credit despite the customers' lack of understanding;
- 12 e. opening account for customers who lacked the language or cognitive  
13 capacity to understand the effects;
- 14 f. enrolling customers for bank products without the customers'  
15 knowledge or consent;
- 16 g. falsifying bank records in order to open bank account and generate  
17 bones-driven bank activity; and
- 18 h. making false promises to customers, such as that accounts are "free" to  
19 entice them to buy and obtain more financial and banking products.

20 51. Upon information and belief, employees and managers at the St. Helena branch  
21 were engaged on these fraudulent and unlawful practices reported by Guitron primarily to meet  
22 Wells Fargo's marketing goals, to obtain financial incentives and to avoid discipline and  
23 consultation for failure to meet those marketing goals.

24 52. On information and belief, Wells Fargo did nothing to investigate or remedy the  
25 practices that were the subject of Guitron's complaints. Instead, Wells Fargo and Rubio  
26 continued with their harassment and retaliation against Guitron. Specifically, Guitron's job  
27 performance was constantly criticized and she was placed on Verbal Probation for tardiness.  
28 Additionally, beginning in or around September 2009 and continuing through the remainder of  
Guitron's employment, Rubio ensured that the referrals of existing and new customers that  
were interested in financial products were diverted away from Guitron so she could not meet  
the minimum Daily Solutions quota and receive no bonuses. Finally, Guitron was terminated

1 by Wells Fargo as a product of retaliation.

2           **2. Guitron was Subjected to Discrimination and Harassment Based on**  
3           **Her Status as a Single Mother Who is Divorced**

4           53. Throughout the period between Guitron's first complaint of unethical behavior  
5 by Zavaleta and Guitron's termination, Rubio and Park subjected Guitron to unwelcomed,  
6 unprofessional and insulting comments related to her status as a single, divorced woman and  
7 single mother.

8           54. Rubio engaged in harassing conduct that included but not limited to the  
9 following:

10           a. with the knowledge and consent of Rubio, Park and other branch  
11 managers asked Guitron on numerous occasions to "shake her skirt" and wear immodest  
12 clothing to attract customers to the bank;

13           b. despite this unwelcomed encouragement, Guitron was counseled by  
14 Park, at the direction of Rubio, for allegedly dressing too provocatively, while other  
15 employees, including Rubio, dressed in violation of the dress code at Wells Fargo;

16           c. Park often harassed and badgered Guitron about who she was dating,  
17 made comments about her status as a single women, and told her that she should bring her  
18 "many" boyfriends in to open bank accounts; and

19           d. Park and Rubio baselessly and falsely accused Guitron of having an  
20 affair or a romantic relationship with several other bank employees, which led to a human  
21 resources investigation into Guitron's relationship with a co-worker.

22           55. In addition to the statements made about her status as a single woman, Rubio  
23 harassed Guitron because she was a single mother. On numerous occasions Guitron was  
24 required to be a few minutes tardy for work because of issues related to her children. On those  
25 occasions, Guitron was reprimanded by Rubio or by other managers at Rubio's direction and  
26 was told that her tardiness was unacceptable. However, when other, non-single mothers, were  
27 also tardy on a regular basis they were not given any reprimands.

28           56. When Guitron was required to be absent to care for her children, she was often  
harassed by Rubio for the basis of her leave and falsely accused of faking her children's illness  
in order to avoid working. Similarly, on occasions that Guitron had to leave early due to  
family issues, Rubio harassed her and delay approval for no apparent reason. In contrast, other

1 employees were allowed to take time off or to leave early without any hassles and without the  
2 need to get approval in advance.

3 57. In April through May 2009 Guitron applied for a family leave to care for her  
4 sick child under the Family and Medical Leave Act ("FMLA"). Park, however, made the  
5 decision to pay Guitron vacation time for a week, making Guitron's request for family leave to  
6 be automatically disqualified. As a result, Guitron lost the ability to apply for FMLA for a  
significant time in which her child hospitalized and lost pay that time.

7 58. Furthermore, Guitron received poor performance reviews from Rubio as a result  
8 of Guitron's status as a single mother. Specifically, in the original 2009 performance review  
9 for Guitron, Rubio (1) noted that Guitron is "having a hard time" being at work on time  
10 because of family issues (2) noted incorrectly that Guitron tardy; and (3) noted an 18-day leave  
11 of absence as 18 different incidences of absence by Guitron. Based on these comments and  
12 other negative comments made by Rubio, Guitron was given a negative performance review  
13 that stood inapposite to prior review of her job at Wells Fargo.

14 59. Guitron was also denied accommodations related to her status as a single parent,  
15 despite properly-made requests. Rubio required Guitron to attend staff meetings that began  
16 prior to regular working hours and participate in night calls with prospective clients after  
17 regular working hours. These additional hours forced Guitron to pay for additional child care  
18 and find alternative transportation for her children. When Guitron asked that these meetings  
19 and/or calls be altered to accommodate her needs, Rubio refused to that request wherein an  
alternative time could have been set for those meetings without undue burden.

20 60. Guitron is informed and believes that she was harassed, discriminated and  
21 retaliated against by Rubio and Wells Fargo because she made complaints about unethical  
conduct and because of her status as a single woman and mother.

22 61. Guitron further contends that Wells Fargo (a) failed to properly train all  
23 supervisory employees, including Rubio, regarding discrimination and harassment in the  
24 workplace; (b) failed to enforce discrimination and harassment procedures; (c) failed to prevent  
25 the discriminating and harassment against Guitron by Rubio and other employees at the St.  
26 Helena branch; and (e) failed to ensure compliance with anti-discrimination and anti-  
27 harassment laws.

28 62. As a result of the treatment, retaliation and eventual termination by Rubio and



1 other Wells Fargo management, Guitron suffered extreme stress and anxiety, which resulted in  
2 a two week migraine that required hospitalization, amongst other physical manifestations.

3 63. In response to Defendants' conduct, on or about June 23, 2010, Guitron filed a  
4 Complaint of Discrimination, Harassment and Retaliation against Wells Fargo with the Equal  
5 Employment Opportunity Commission ("EEOC"). On July 6, 2010, in response to Guitron  
6 request, the EEOC issued a Notice Of Right To Sue to Guitron that was received by Guitron on  
7 or about July 8, 2010. True and correct copies of the above Complaint and Notice are attached  
8 hereto as Exhibit "A".

9 64. Additionally, Guitron filed Complaints of Discrimination, Harassment and  
10 Retaliation against Wells Fargo and Rubio with the California Department of Fair Employment  
11 and Housing ("DFEH") on or about June 8, 2010. In response to Guitron's request, on or  
12 about June 18, 2010, the DFEH issued Notices Of Right To Sue, which Guitron received on  
13 that same day. True and correct copies of the above Complaints and Notices are attached  
14 hereto as Exhibit "B".

15 **C. Factual Allegations Pertaining to Klosek**

16 **1. Klosek Refused to Engage and Complained about Unlawful and**  
17 **Fraudulent Practices**

18 65. Klosek is 65 year old, Caucasian female with a legal and financial planning  
19 background.

20 66. Klosek began working for the Sonoma branch in September 2008 as a Personal  
21 Licensed Banker, Grade II. In this role Klosek provides services including, but not limited to,  
22 opening new accounts, servicing accounts and processing loans for high end customers.

23 67. As a Personal Licensed Banker, Grade II, Klosek was also obligated to secure at  
24 least 5.5 Daily Solutions per day and obtaining minimum quarterly assets in the amount of  
25 \$300,000 for the bank.

26 68. While employed at Wells Fargo, Klosek excelled in her position. In addition to  
27 being recognized for her accomplishments by her superiors, she has received a merit-based  
28 raise in 2009.

69. In November 2008 and continuing through February 2009, Klosek was required  
to take a medical leave of absence for health reasons. After she returned from her leave of  
absence, Klosek witnessed unethical practices by other bankers at the Sonoma branch,

1 including but not limited to, bankers opening and closing accounts improperly to increase their  
2 Daily Solutions numbers, forcing banking solutions on customers when the customers were  
3 clearly confused by the product and did not necessarily want or need the product, and failing to  
4 disclose necessary information to customers.

5 70. In April 2009, Klosek made complaints to Wells Fargo's Ethic's Hotline about  
6 the unethical practices she had witnessed in the Sonoma branch. Additionally, Klosek made  
7 verbal complaints to Ms. Brandenburg about the same unethical practices. Klosek was never  
8 contacted about these complaints and has no knowledge if Wells Fargo ever took any steps to  
9 follow up on the allegations against the bankers at the Sonoma branch.

10 71. Shortly after Klosek made the aforementioned complaint to the Ethic's Hotline,  
11 she was subjected to harassment and discrimination by her supervisor John Alejo ("Alejo") that  
12 included but not limited to, criticizing Klosek for walking too slow because of her age, calling  
13 her a "Wal-Mart greeter", criticizing Klosek for things outside her control, telling Klosek that  
14 she did not "fit in" at the branch because of her age, sending Klosek less customers with the  
15 potential to earn Daily Solutions and precluding Klosek from participating in staff meeting  
16 activities. Klosek is informed and believes that Alejo's harassment and discrimination was  
17 based on Klosek's age, medical leave and reporting of violations to the Ethic's Hotline.

18 72. In June 2009, after her complaint to the Ethic's Hotline went unacknowledged  
19 and Alejo's conduct went unabated, Klosek requested a transfer to another branch.

20 73. Klosek was transferred to the St. Helena branch, a less desirable location than  
21 the Sonoma Branch, by Ms. Brandenburg. At the time, Ms. Brandenburg informed Klosek that  
22 she would "fit in" better at St. Helena because there were "older employees"  
23 there. However, the majority of the bankers and other employees at the St. Helena branch  
24 were under the age of 40 and not Caucasian. Since Klosek transferred to St. Helena, she has  
25 been the only banker over the age of 40 and the only Caucasian banker that was not a part of  
26 management.

27 74. Rubio was at all relevant times the branch manager at St. Helena and Klosek's  
28 supervisor during her tenure at the St. Helena branch.

75. Upon transferring to the St. Helena branch, Klosek immediately began the  
process of creating a profile for herself in the financial community and bringing in new  
business.

1           76. At first, Rubio recognized and lauded Klosek for her accomplishments.  
2 However, shortly after Klosek joined the St. Helena's branch, she became aware that the  
3 unethical practices she had witnessed at the Sonoma branch were even more prevalent at the  
4 St. Helena branch.

5           77. On or about September 4, 2009, Klosek was asked by Rubio to note Zavaleta as  
6 the referral source for a new investment and financial planning client for the purpose of getting  
7 a Daily Solution for that notation even though Zavaleta had not actually referred the client.  
8 Klosek refused to engage in this conduct believing it to be unfair and unethical. In an email  
9 later that day, Klosek explained to Rubio the reasons she refused to engage in this activity, and  
10 stated that she believed that it was in violation of the Wells Fargo ethic codes. Rubio never  
11 addressed Klosek's concerns and simply responded that the matter had been discussed and was  
12 complete.

13           78. Thereafter, Rubio engaged in a pattern and practice of harassing and retaliation  
14 against Klosek. Klosek is informed and believes that Rubio's change of behavior was a result  
15 of Klosek's refusal to participate in unethical practices, Klosek's complaints over unlawful and  
16 unethical conduct of bankers, and Klosek's support of Guitron for similar complaints that  
17 Guitron made.

18           79. In October 2009, Klosek was informed by other employees that Rubio was  
19 making statements to employees at Wells Fargo both at the St. Helena branch and to those  
20 outside the branch, that Klosek was untrustworthy and developing bad relationships with her  
21 coworkers.

22           80. Subsequently, in or around mid-October 2009, Rubio asked Klosek to meet with  
23 her in the vault at St. Helena. At this meeting, Rubio accused Klosek of playing a role in the  
24 complaints lodged by Guitron against Zavaleta. Rubio threatened Klosek that if she  
25 participated in any way with complaints against Zavaleta, Rubio would make working at the  
26 St. Helena branch difficult for Klosek. Klosek stated that she believed Zavaleta was indeed  
27 engaging in unethical conduct and further stated that she believed Rubio was doing nothing to  
28 stop Zavaleta's behavior despite her knowledge of it. Klosek left the meeting feeling  
threatened, harassed and retaliated against by Rubio.

          81. Repeatedly in October through December 2009, Klosek made complaints to  
Rubio about unlawful and unethical conduct of other bankers at the St. Helena branch in

1 obtaining Daily Solutions. Specifically, Klosek complained that Zavaleta and other bankers  
 2 were improperly opening and closing accounts in a manner to increase their Daily Solutions  
 3 and they were forcing accounts on customers without customers having the requisite  
 4 knowledge to agree to the opening of an account. Klosek stated that she believed these actions  
 5 were unethical and that as a result of Rubio's consent to this conduct, Klosek was personally  
 6 losing business by continuing to provide Daily Solutions to unethical bankers and not to  
 Klosek.

7 82. On information and belief, Rubio and Wells Fargo did nothing to investigate or  
 8 remedy the practices that were the subject of Klosek's complaints. Instead, Wells Fargo  
 9 managers engaged in a pattern and practice of harassing and retaliating against Klosek.

10 83. Starting in October 2009 and continuing through the present, Klosek is  
 11 informed and believes that she was being retaliated against because of her lodging of  
 12 complaints of unlawful activity and her refusal to participate in that activity. This retaliation  
 13 includes, but is not limited to the following:

- 14 a. reducing and limiting Klosek's work activity could play at St. Helena  
by not referring her Daily Solutions;
- 15 b. being offered less new business and potential Daily Solutions than other  
16 bankers;
- 17 c. lack of support in obtaining Daily Solutions;
- 18 d. making disparaging statements about Klosek to customers and  
19 employees;
- 20 e. baseless criticism of Klosek's work performance when she was meeting  
21 expectations;
- 22 f. failing to properly review Klosek's work when required;
- 23 g. refusing to communicate with Klosek about matters relevant to her  
employment, such as her quarterly review and Daily Solutions needs;
- 24 h. not being given asset credit on accounts she opened;
- 25 i. mandating that Klosek get additional approval for time off wherein her  
26 similarly situated peers were not required to get; and
- 27 j. prohibiting Klosek from opening business accounts.

28 84. A specific example of the retaliation Klosek suffered occurred in December

1 2009. When Klosek transferred to the St. Helena branch in the summer of 2009, Rubio  
2 informed her that she would not be held accountable for the full earnings requirement of her  
3 position because the transition would hinder her earning capabilities. Rubio initially informed  
4 Klosek that during this transition time, Klosek will satisfy the Daily Solutions requirement if  
5 she brought in 2 Daily Solutions per day. However, in December 2009, Rubio gave Klosek a  
6 performance review where she held her accountable for the full earnings requirement of 5.5  
7 Daily Solutions beginning with her move to St. Helena. Rubio then gave Klosek a verbal  
8 warning for failing to meet her minimum requirements despite their previous agreement.

8 85. In a December 24, 2009, meeting, Rubio accused Klosek for her handling of  
9 opening accounts for two brothers incorrectly. Klosek protested and explained to Rubio the  
10 circumstances of opening the accounts and demonstrated that she did not engage in any  
11 deliberate attempt to violate banking practices. Although Klosek believed she had justified her  
12 actions, after the meeting Klosek took additional steps to ensure that she opened a correct and  
13 appropriate accounts. When she received verification that she had acted properly, she sent the  
14 follow up confirmation to Rubio.

14 86. Nevertheless, in January 2010, Klosek was subjected to an investigation into an  
15 alleged improper account handling. In or around mid-January 2010, Klosek was interviewed  
16 by a Human Resources consultant, Jodi Takahashi on that issue. Ms. Takahashi informed  
17 Klosek that Wells Fargo was investigating Klosek for fraudulent activities. In her meeting  
18 with Ms. Takahashi, Klosek learned that someone had made a complaint that Klosek had  
19 mixed up the identification of two brothers who were opening accounts with Wells Fargo.  
20 Klosek explained that the mix up had been an inadvertent error that was corrected. Ms.  
21 Takahashi stated that the complaint was a minimal one and that because Klosek had no further  
22 information to offer she would close the investigation.

22 87. Klosek was never made aware that any of her complaints or the complaints  
23 made by Guitron for unlawful banking practices were ever investigated nor was she ever  
24 requested to give an account of the basis of her complaint to any investigator.

25 **2. Klosek was Subjected to Discrimination and Harassment Based on**  
26 **Her Age and National Origin**

27 88. In addition to being retaliated against for making complaints as set forth above,  
28 Klosek is informed and believes that Rubio's and Wells Fargo's conduct against her was based

1 on her age and race. Klosek is a female, Caucasian employee over the age of 40 who was the  
2 minority in her branch.

3 89. Klosek was subjected to disparate treatment from Rubio and other Wells Fargo  
4 employees as a result of her status as a Caucasian employee and/or her status as an employee  
5 over the age of 40. Beginning with her transfer to St. Helena and continuing through the  
6 present, Klosek was treated differently than the other bankers at St. Helena. This treatment by  
7 Rubio included, but was not limited to, the following:

- 8 a. telling Klosek she was too old to be in the banking industry;
- 9 b. giving younger bankers more support in obtaining new clients than  
10 Klosek;
- 11 c. refusing to transfer potential new business to Klosek wherein younger  
12 and non-Caucasian employees were referred that business;
- 13 d. failing to support Klosek in obtaining Daily Solutions while younger and  
14 non-Caucasian employees got that support;
- 15 e. not inviting Klosek to public events to garner leads, where other bankers  
16 were regularly invited;
- 17 f. criticizing Klosek's work performance when she was meeting  
18 expectations;
- 19 g. refusing to allow Klosek to open certain types of accounts, such as  
20 business accounts, when other similarly situated individuals were given the right to open these  
21 accounts;
- 22 h. failing to properly review Klosek's work when required;
- 23 i. disparaging Klosek to customers and employees;
- 24 j. reducing and limiting the role Klosek could play at St. Helena;
- 25 k. refusing to communicate with Klosek about matters relevant to her  
26 employment such as concerns about her quarterly reviews;
- 27 l. being offered less new business and potential Daily Solutions than other  
28 bankers by refusing to refer Klosek new customers when they came to the branch;
- m. not given asset credit on accounts she had opened where younger and  
non-Caucasian employees received that credit; and
- n. being required to get permission from additional individuals than her



1 similarly situated peers would be required should she wish to take time off.

2 90. A specific example of this harassment and discrimination occurred in early  
3 January 2010 at the friends and family day event held at the St. Helena branch. As set forth  
4 above, Rubio is in charge of distributing Daily Solutions and potential customers. Klosek is  
5 informed and believes that Rubio refused to give Klosek any potential customers who were not  
6 Caucasian. On this day, Klosek received less than half the amount of potential customer leads  
7 than her similarly situated peers who were non-Caucasian as a result of Rubio's intentions.

8 91. Additionally, in or around March 2010, Rubio formally implemented a  
9 mandatory policy that Hispanic customers could only be serviced by Hispanic bankers when  
10 they came into the branch, unless they directly refused to work with Hispanic bankers. As the  
11 majority of the customers at the St. Helena branch were Hispanic, this policy had a disparate  
12 impact on Klosek.

13 92. Furthermore, Rubio created and perpetuated an environment where employees'  
14 physical appearance was used to elicit new business. As such, Rubio would often compliment  
15 the younger staff on their looks and suggest that they use their looks to increase business.  
16 Rubio would then give the younger bankers more referrals based on this policy. Klosek was  
17 disparately impacted by this policy because of her age as she received fewer referrals.

18 93. In or around the first two weeks in January 2010, Klosek was interviewed by a  
19 Mr. Hurtado, a Human Resources Consultant for Wells Fargo. Mr. Hurtado informed Klosek  
20 that the purpose of the meeting was to discuss the atmosphere at the St. Helena branch but that  
21 it was not part of an investigation. In this meeting, Klosek informed Hurtado that she had  
22 concerns about the following: (1) fraudulent banking practices at the St. Helena branch in  
23 opening and closing accounts improperly; (2) management's refusal to investigate complaints  
24 about these practices; (3) management's treatment of her based on her race; and (4) retaliation  
25 against her for raising complaints about being mistreated because of her age and race and her  
26 complaints about fraudulent activities, by limited her business and spreading false facts about  
27 her. Klosek further expressed her concerns that she was being harassed and discriminated  
28 against by Rubio. Subsequent to this meeting, on or about February 5, 2010, Klosek had a  
meeting with Ms. Eagles-Williams where she formally lodged her complaints pertaining to  
Rubio's treatment.

94. By February 22, 2010, neither Mr. Hurtado nor Ms. Eagles-Williams had

1 responded to Klosek's complaints of discrimination and harassment. That day, however, she  
2 was called into a meeting with Rubio and Walker. During the meeting Rubio made numerous  
3 incorrect and unsupported statements about Klosek and was overall very combative in  
4 approaching Klosek. Furthermore, Rubio misquoted Klosek's previous statements and did not  
5 give Klosek an opportunity to correct those statements. Without giving Klosek a chance to  
6 respond to Rubio's statement, Walker placed Klosek on administrative leave for an  
7 undetermined length of time so that Rubio and Walker could "figure out what to do with  
8 Klosek."

9 95. On March 3, 2010, Klosek returned to work, and was informed by her clients  
10 that Wells Fargo had told them that she was not "returning" to Wells Fargo, indicating that  
11 Wells Fargo either intended to fire Klosek or encourage Klosek to quit.

12 96. On or about March 9, 2010, Klosek was informed that Wells Fargo would be  
13 investigating the complaints she had made in February 2010. The alleged investigation was a  
14 few interviews and phone calls conducted by Deborah Cook, a human resources representative  
15 from Orange County, California. Despite the limited nature of the investigation, Klosek did  
16 not hear any results of the investigation until May 2010. In May 2010, after a her cursory  
17 investigation, Ms. Cook determined that no policies had been violated, but that "appropriate  
18 action" would be taken to ensure the management at the St. Helena branch was more cohesive.  
19 To date, Klosek is informed and believes no "action" has been taken to alter the management at  
20 St. Helena.

21 97. From the time she returned from administrative leave until May 15, 2010,  
22 Klosek suffered continual harassment and adverse employment actions as a result of her age,  
23 race and involvement and/or perceived involvement with complaints pertaining to the  
24 fraudulent banking activities occurring at the St. Helena branch.

25 98. Klosek suffered harassment on daily basis from Rubio as she was subjected to  
26 daily unwarranted criticisms and performance critiques, a constant lack of support in job  
27 performance and made decisions to exclude Klosek from succeeding at St. Helena.

28 99. The stress of the harassment, discrimination and retaliation suffered by Klosek  
caused her to go to the emergency room with chest pains on May 14, 2010. To deal with her  
illness, Klosek took a medical leave of absence from May 14, 2010 to the present.

100. Klosek is informed and believes that the actions of Rubio Wells Fargo as set

1 forth herein are harassment and discrimination based on Klosek's age and race. Klosek is  
2 further informed and believes that these actions are retaliation for her complaints and part of a  
3 consistent effort by Rubio to create a negative work performance record for Klosek so she may  
4 terminate her. At all times the conduct of Rubio and other individuals at the St. Helena branch  
5 towards Klosek was known to Walker and other senior managers at Wells Fargo.

6 101. Klosek further contends that Wells Fargo (a) failed to properly train all  
7 supervisory employees, including Rubio, regarding discrimination and harassment in the  
8 workplace; (b) failed to enforce discrimination and harassment procedures; (c) failed to prevent  
9 the discriminating and harassment against Guitron by Rubio and other employees at the St.  
10 Helena branch; and (e) failed to ensure compliance with anti-discrimination and anti-  
harassment laws.

11 102. As a result of the treatment, suspension and retaliation by Rubio, Walker and  
12 other Wells Fargo management, Klosek, suffered extreme stress, anxiety and depression.

13 103. In response to Defendants' conduct, on or about April 29, 2010, Klosek filed a  
14 Complaint of Discrimination, Harassment and Retaliation against Wells Fargo with the EEOC.  
15 On or about May 6, 2010, in response to Klosek request, the EEOC issued a Notice Of Right  
16 To Sue to Klosek that was received by Klosek on or about May 8, 2010. True and correct  
copies of the above Complaint and Notice are attached hereto as Exhibit "C".

17 104. Additionally, Klosek filed Complaints of Discrimination, Harassment and  
18 Retaliation against Defendants with the DFEH on or about April 23, 2010. In response to  
19 Klosek's request, on or about April 23, 2010, the DFEH issued a Notice Of Right To Sue,  
20 which Klosek received on that same day. True and correct copies of above Complaints and  
21 Notices are attached hereto as Exhibit "D".

22 **FIRST CAUSE OF ACTION**  
23 **Wrongful Discharge in Violation of Public Policy**  
24 **(Asserted by Guitron Against Wells Fargo)**

25 105. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
26 reference.

27 106. An employer commits tortious termination in violation of public policy when  
28 there is an applicable public policy protecting an employee with a certain status and the

1 employer terminates the employee because of his or her protected status. *Tameny v. Atlantic*  
2 *Richfield Co.* (1980) 27 Cal.3d 167. A duty is implied by law on the part of the employer to  
3 conduct its affairs in compliance with public policy, expressed judicially or by statute.

4 107. The public policy expressed in Title VII and the California Fair Employment  
5 and Housing Act, codified in Gov't Code §12900 *et seq.* ("FEHA") protects employees from  
6 discrimination and retaliation based upon race, gender, age and for making claims for wages.  
7 The facts set forth above demonstrate that Wells Fargo terminated Guitron and took other  
8 adverse employment actions against her because she complained about unethical banking  
9 practices and because she was a single woman and mother in violation of well-established  
10 public policy.

11 108. Wells Fargo's actions, as described above, directly and proximately have  
12 caused, and continue to cause, Guitron to suffer losses of income and professional  
13 opportunities and have caused severe emotional distress, anguish, pain and suffering,  
14 humiliation, indignity, personal embarrassment, and damage to her professional reputation.

15 109. As such, Guitron is entitled to damages according to proof at trial.

16 110. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
17 malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to  
18 punitive damages in an amount according to proof at the time of trial.

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**SECOND CAUSE OF ACTION**  
**Discrimination in Violation of Title VII**

**COUNT ONE**  
**(Asserted by Guitron Against Wells Fargo)**

111. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
reference.

112. Title VII prohibits sexual discrimination on the basis of gender and marital  
status, such that all individuals are entitled to the enjoyment of all benefits, privileges, terms  
and conditions of employment.

113. As set forth above, throughout the course of her employment at Wells Fargo,  
Guitron was treated less favorably than her male and non-single parent/female colleagues.  
This differential treatment included, but was not limited to, setting additional requirements for  
Guitron, subjecting Guitron to torment and harassment about her private life, giving Guitron

1 poor performance reviews based on her familial obligations and discriminating against Guitron  
2 for having to care for her children.

3 114. Rubio acted in the interest of Wells Fargo and aided and abetted the unequal  
4 treatment of Plaintiff on the basis of her gender and marital status in violation of Title VII.

5 115. Wells Fargo's actions, as described above, directly and proximately have  
6 caused, and continue to cause, Guitron to suffer losses of income and professional  
7 opportunities and have caused severe emotional distress, anguish, pain and suffering,  
8 humiliation, indignity, personal embarrassment, and damage to her professional reputation.

9 116. As such, Guitron is entitled to damages according to proof at trial.

10 117. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
11 malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to  
12 punitive damages in an amount according to proof at the time of trial.

13 **COUNT TWO**  
14 **(Asserted by Klosek Against Wells Fargo)**

15 118. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
16 reference.

17 119. Title VII prohibits discrimination on the basis of age, race and national origin,  
18 such that all individuals are entitled to the enjoyment of all benefits, privileges, terms and  
19 conditions of employment.

20 120. As set forth above, throughout the course of her employment at Wells Fargo,  
21 Klosek was treated less favorably than her younger and non-Caucasian colleagues. This  
22 differential treatment included, but was not limited to, refusing to provide Klosek with  
23 potential business opportunities, refusing to give Klosek support to obtain Daily Solutions, and  
24 placing Klosek on unwarranted administrative leave.

25 121. Rubio acted in the interest of Wells Fargo and aided and abetted the unequal  
26 treatment of Plaintiff on the basis of her gender and marital status in violation of Title VII.

27 122. Wells Fargo's actions, as described above, directly and proximately have  
28 caused, and continue to cause, Klosek to suffer losses of income and professional opportunities  
and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,  
personal embarrassment, and damage to her professional reputation.

1 123. As such, Klosek is entitled to damages according to proof at trial.

2 124. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
3 malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to  
4 punitive damages in an amount according to proof at the time of trial.

5  
6 **THIRD CAUSE OF ACTION**  
**Retaliation in Violation of Title VII**

7 **COUNT ONE**  
8 **(Asserted by Guitron Against Wells Fargo)**

9 125. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
10 reference.

11 126. In order to protect their interests and rights, Guitron reported what she  
12 reasonably believed to be improper and unlawful, discriminatory and harassing conduct of  
13 Rubio, Zavaleta, Park and other Wells Fargo employees as set forth above.

14 127. Wells Fargo engaged in conduct that, taken as a whole, materially and adversely  
15 affected the terms and conditions of Guitron's employment, including retaliating against  
16 Guitron by giving Guitron negative employee performance evaluations, creating a hostile work  
17 environment for Guitron, and by terminating Guitron. Wells Fargo intentionally created or  
18 knowingly permitted intolerable working conditions to exist.

19 128. These retaliatory actions constitute an unlawful act of employment  
20 discrimination in derogation of Guitron's rights under 42 U.S.C. §§2000e *et seq.*, for which  
21 Guitron is entitled to relief.

22 129. Wells Fargo's actions, as described above, directly and proximately have  
23 caused, and continue to cause, Guitron to suffer losses of income and professional  
24 opportunities and have caused severe emotional distress, anguish, pain and suffering,  
25 humiliation, indignity, personal embarrassment, and damage to her professional reputation.

26 130. As such, Guitron is entitled to damages according to proof at trial.

27 131. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
28 malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to  
punitive damages in an amount according to proof at the time of trial.



**COUNT TWO**  
**(Asserted by Klosek Against Wells Fargo)**

132. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.

133. In order to protect her interests and rights, Klosek reported what she reasonably believed to be improper and unlawful, discriminatory and harassing conduct of Rubio, Zavaleta, Park and other Wells Fargo employees as set forth above.

134. Wells Fargo engaged in conduct that, taken as a whole, materially and adversely affected the terms and conditions of Klosek's employment, including retaliating against Klosek by giving Klosek negative employee performance evaluations, creating a hostile work environment for Klosek and by placing Klosek on unwarranted administrative leave. Wells Fargo intentionally created or knowingly permitted intolerable working conditions to exist.

135. These retaliatory actions constitute an unlawful act of employment discrimination in derogation of Klosek's rights under 42 U.S.C. §§2000e *et seq.*, for which Klosek is entitled to relief.

136. Wells Fargo's actions, as described above, directly and proximately have caused, and continue to cause, Klosek to suffer losses of income and professional opportunities and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to her professional reputation.

137. As such, Klosek is entitled to damages according to proof at trial.

138. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud, malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to punitive damages in an amount according to proof at the time of trial.

**FOURTH CAUSE OF ACTION**  
**Failure to Prevent Discriminatory Practices in Violation of Title VII**

**COUNT ONE**  
**(Asserted by Guitron against Wells Fargo)**

139. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.



150. Wells Fargo's actions, as described above, directly and proximately have  
caused, and continue to cause, Klosek to suffer losses of income and professional opportunities  
and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,  
personal embarrassment, and damage to her professional reputation.

9            151. As such, Klosek is entitled to damages according to proof at trial.

10           152. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
11 malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to  
12 punitive damages in an amount according to proof at the time of trial.

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17            153.    The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
reference.

18           154. FEHA makes it unlawful for an employer to discriminate against an employee  
19 on the basis of sex, gender and marital status.

155. As set forth above, throughout the course of her employment at Wells Fargo, Guitron was treated less favorably than her male and non-single parent/ female colleagues. This differential treatment included, but was not limited to, setting additional requirements for Guitron, subjecting Guitron to torment and harassment about her private life, giving Guitron poor performance reviews based on her familial obligations and discriminating against Guitron for having to care for her children in violation of Gov't Code §12945.

26 156. Wells Fargo's actions, as described above, directly and proximately have caused, and continue to cause, Guitron to suffer losses of income and professional

1 opportunities and have caused severe emotional distress, anguish, pain and suffering,  
2 humiliation, indignity, personal embarrassment, and damage to her professional reputation.

3 157. As such, Guitron is entitled to damages according to proof at trial.

4 158. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
5 malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to  
6 punitive damages in an amount according to proof at the time of trial.

7 **COUNT TWO**  
8 **(Asserted by Klosek Against Wells Fargo)**

9 159. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
10 reference.

11 160. FEHA makes it unlawful for an employer to discriminate against an employee  
12 on the basis of age, race and national origin.

13 161. As set forth above, throughout the course of her employment at Wells Fargo,  
14 Klosek was treated less favorably than her younger and/or non-Caucasian colleagues. This  
15 differential treatment included, but was not limited to, Klosek being treated less favorably than  
16 her younger and non-Caucasian colleagues. This differential treatment included, but was not  
17 limited to, refusing to provide Klosek with potential business opportunities, refusing to give  
18 Klosek support to obtain Daily Solutions, and placing Klosek on unwarranted administrative  
leave in violation of Gov't Code §12945.

19 162. Wells Fargo's actions, as described above, directly and proximately have  
20 caused, and continue to cause, Klosek to suffer losses of income and professional opportunities  
21 and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,  
22 personal embarrassment, and damage to her professional reputation.

23 163. As such, Klosek is entitled to damages according to proof at trial.

24 164. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
25 malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to  
punitive damages in an amount according to proof at the time of trial.

26 //

27 //

28 //

**SIXTH CAUSE OF ACTION**  
**Retaliation in Violation of Gov't Code §12940**

**COUNT ONE**  
**(Asserted by Guitron Against Wells Fargo)**

165. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.

166. In order to protect her interests and rights, Guitron reported what she reasonably believed to be improper and unlawful, discriminatory and harassing conduct of Rubio, Park, Zavaleta and other Wells Fargo employees as set forth above.

167. Wells Fargo engaged in conduct that, taken as a whole, materially and adversely affected the terms and conditions of Guitron's employment, including, but not limited to, retaliating against Guitron by giving Guitron negative employee performance evaluations, creating a hostile work environment for Guitron, and by terminating Guitron. Wells Fargo intentionally created or knowingly permitted intolerable working conditions to exist. Wells Fargo's retaliation was in violation of Gov't Code §12940(h).

168. Guitron's complaints about the unlawful business practices at Wells Fargo and the treatment by Park and Rubio against her was a motivating reason for Wells Fargo's adverse employment actions against Guitron.

169. Guitron was terminated in furtherance of this retaliation.

170. Wells Fargo's actions, as described above, directly and proximately have caused, and continue to cause, Guitron to suffer losses of income and professional opportunities and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to her professional reputation.

171. As such, Guitron is entitled to damages according to proof at trial.

172. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud, malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to punitive damages in an amount according to proof at the time of trial.

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**COUNT TWO**  
**(Asserted by Klosek Against Wells Fargo)**

173. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.

174. In order to protect her interests and rights, Klosek reported what she reasonably believed to be improper and unlawful, discriminatory and harassing conduct of Rubio, Zavaleta and other Wells Fargo employees as set forth above.

175. Wells Fargo engaged in conduct that, taken as a whole, materially and adversely affected the terms and conditions of Klosek's employment, including, but not limited to, retaliating against Klosek by giving Klosek negative employee performance evaluations, creating a hostile work environment for Klosek and by placing Klosek on unwarranted administrative leave. Wells Fargo intentionally created or knowingly permitted intolerable working conditions to exist. Wells Fargo's retaliation was in violation of Gov't Code §12940(h).

176. Klosek's complaints about the unlawful business practices at Wells Fargo and the treatment by Walker and Rubio against her were a motivating reason for Wells Fargo's adverse employment actions against Klosek.

177. Klosek was placed on unwarranted administrative leave furtherance of this retaliation.

178. Wells Fargo's actions, as described above, directly and proximately have caused, and continue to cause, Klosek to suffer losses of income and professional opportunities and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to her professional reputation.

179. As such, Klosek is entitled to damages according to proof at trial.

180. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud, malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to punitive damages in an amount according to proof at the time of trial.

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**SEVENTH CAUSE OF ACTION**  
**Harassment in Violation of Gov't Code §12945**

**COUNT ONE**  
**(Asserted by Guitron Against Rubio)**

181. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.

182. During the course of Guitron's employment, Rubio created and allowed the existence of a hostile work environment and harassed Guitron on the basis of her marital status and gender in violation of FEHA.

183. Rubio engaged in an ongoing pattern and practice of pervasive and unlawful gender harassment by subjecting Guitron to a hostile work environment because of her status as a single woman and mother, as set forth above.

184. The above-described unwelcome harassment was severe, pervasive and created an intimidating, oppressive, hostile and offensive work environment which interfered with Guitron's emotional and physical well-being and Guitron's ability to perform her job.

185. Wells Fargo at all times relevant hereto had actual and constructive knowledge of the conduct described herein.

186. Rubio's actions, as described above, directly and proximately have caused, and continue to cause, Guitron to suffer losses of income and professional opportunities and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to her professional reputation.

187. As such, Guitron is entitled to damages according to proof at trial.

188. In doing the acts herein alleged, Rubio acted with oppression, fraud, malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to punitive damages in an amount according to proof at the time of trial.

**COUNT TWO**  
**(Asserted by Klosek Against Rubio)**

189. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.

1           190. During the course of Klosek's employment, Rubio created and allowed the  
2 existence of a hostile work environment and harassed Klosek on the basis of her age and race  
3 in violation of FEHA.

4           191. Rubio engaged in an ongoing pattern and practice of pervasive and unlawful  
5 gender harassment by subjecting Klosek to a hostile work environment because of her status as  
6 a woman over 40 and of Caucasian decent as set forth above.

7           192. The above-described unwelcome harassment was severe, pervasive and created  
8 an intimidating, oppressive, hostile and offensive work environment which interfered with  
9 Klosek's emotional and physical well-being and Klosek's ability to perform her job.

10           193. Rubio at all times relevant hereto had actual and constructive knowledge of the  
11 conduct described herein.

12           194. Rubio's actions, as described above, directly and proximately have caused, and  
13 continue to cause, Klosek to suffer losses of income and professional opportunities and have  
14 caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal  
15 embarrassment, and damage to her professional reputation.

16           195. As such, Klosek is entitled to damages according to proof at trial.

17           196. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud,  
18 malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to  
19 punitive damages in an amount according to proof at the time of trial.

## 20                           **EIGHTH CAUSE OF ACTION**

### 21                   **Failure to Prevent Discriminatory Practices in Violation of Gov't Code §12940**

#### 22                           **COUNT ONE**

#### 23                   **(Asserted by Guitron Against Wells Fargo)**

24           197. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by  
25 reference.

26           198. Pursuant to Gov't Code §12940 *et seq.*, Wells Fargo has a duty to take all  
27 reasonable steps necessary to prevent discrimination and harassment from occurring in its  
28 places of employment.

200. Upon information and belief, Wells Fargo never initiated a proper investigation into Guitron's complaints of discrimination, nor did Wells Fargo implement effective discrimination and reporting procedures, or inform employees of what the company's discrimination reporting procedures were, if any.

202. As such, Guitron is entitled to damages according to proof at trial.

203. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud, malice, and in conscious disregard of Guitron's rights and Guitron is therefore entitled to punitive damages in an amount according to proof at the time of trial.

204. The allegations of paragraphs 1-104 are re-alleged and incorporated herein by reference.

205. Pursuant to Gov't Code §12940 *et seq.*, Wells Fargo has a duty to take all reasonable steps necessary to prevent discrimination and harassment from occurring in its places of employment.

206. As set forth herein, in violation of this duty, Wells Fargo failed, prior to occurrence of each of the acts of discrimination experienced by Klosek, to take all reasonable steps necessary to prevent those acts of discrimination against Klosek from occurring.

207. Upon information and belief, Wells Fargo never initiated a proper investigation into Klosek's complaints of discrimination, nor did Wells Fargo implement effective discrimination and reporting procedures, or inform employees of what the company's discrimination reporting procedures were, if any.

209. As such, Klosek is entitled to damages according to proof at trial.

210. In doing the acts herein alleged, Wells Fargo acted with oppression, fraud, malice, and in conscious disregard of Klosek's rights and Klosek is therefore entitled to punitive damages in an amount according to proof at the time of trial.

## PRAYER FOR RELIEF

Plaintiffs pray for relief, as follows:

1. Enter a judgment in Plaintiffs favor and against Defendants for discrimination, harassment and retaliation in violation of Title VII and Gov't Code;
2. Enter a judgment in Guitron's favor and against Wells Fargo for constructive termination;
3. Enter a judgment in Plaintiffs' favor and Wells Fargo for its failure to prevent discriminatory practices;
4. An award to Plaintiffs of compensatory damages in an amount to be proven at trial;
5. An award to Plaintiffs of general damages in an amount to be proven at trial;
6. An award to Plaintiffs of punitive damages in an amount to be proven at trial;
7. An award of reasonable attorneys' fees and costs; and
8. All other relief the court deems just and proper.

Dated: August 6, 2010

PERETZ &amp; ASSOCIATES

By: (-) Yosef Peretz  
Yosef Peretz  
Attorneys for Plaintiffs YESENIA  
GUITRON and JUDI KLOSEK

Yosef Peretz (SBN 209288)  
Emily A. Knoles (SBN 241671)  
Michael D. Burstein (SBN 248516)  
PERETZ & ASSOCIATES  
22 Battery Street, Suite 202  
San Francisco, CA 94111  
Telephone: 415.732.3777  
Facsimile: 415.372.3791

Attorneys for Plaintiffs  
YESENIA GUITRON and JUDI KLOSEK

**UNITED STATES DISTRICT COURT**  
**FOR THE \_NORTHERN DISTRICT OF CALIFORNIA**

YESENIA GUITRON and JUDI KLOSEK,

Plaintiffs,

v.

WELLS FARGO, N.A.; WELLS FARGO &  
CO.; PAM RUBIO; HALE WALKER; ISOOK  
PARK; and DOES 1-50,

Defendants.

CASE NO.

**DEMAND FOR A JURY TRIAL**

Plaintiffs YESENIA GUITRON and JUDI KLOSEK hereby request a trial by jury on  
each cause of action for which a trial by jury is proper.

Dated: August 6, 2010

PERETZ & ASSOCIATES

By: (-) Yosef Peretz


Yosef Peretz

Attorneys for Plaintiffs YESENIA  
GUITRON and JUDI KLOSEK

Exhibit A



EEOC Form 5 (5/01)

<b>CHARGE OF DISCRIMINATION</b> <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To:      Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA  <input checked="" type="checkbox"/> EEOC         </div> <div style="text-align: right; font-size: 1.2em;">           550-2010-01590         </div> </div>	
<b>California Department Of Fair Employment &amp; Housing</b> and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) <b>Gultron, Yesenia</b>		Home Phone (Incl. Area Code) <b>(415) 732-3777</b>	
Street Address      City, State and ZIP Code <b>C/O Yosef Peretz, 22 Battery Street #202, San Francisco, CA 94111</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>WELLS FARGO</b>		No. Employees, Members      Phone No. (Include Area Code) <b>500 or More      (707)963-3607</b>	
Street Address      City, State and ZIP Code <b>1107 Main Street, Saint Helena, CA 94574</b>			
Name		No. Employees, Members      Phone No. (Include Area Code)	
Street Address      City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap; justify-content: space-between;"> <div><input type="checkbox"/> RACE</div> <div><input type="checkbox"/> COLOR</div> <div><input checked="" type="checkbox"/> SEX</div> <div><input type="checkbox"/> RELIGION</div> <div><input type="checkbox"/> NATIONAL ORIGIN</div> <div><input checked="" type="checkbox"/> RETALIATION</div> <div><input type="checkbox"/> AGE</div> <div><input type="checkbox"/> DISABILITY</div> <div><input checked="" type="checkbox"/> OTHER (Specify below.)</div> </div>			DATE(S) DISCRIMINATION TOOK PLACE Earliest      Latest <b>02/12/2010</b>  <input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): 1) Retaliation for Filing Complaints 2) Marital Status 3) See Attached DFEH			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.  <div style="display: flex; align-items: center;"> <div style="margin-right: 20px;"> <b>June 23, 2010</b>  <small>Date</small> </div> <div style="text-align: center;">   <small>Charging Party Signature</small>  <b>By Yosef Peretz, Esq.</b> </div> </div>		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT   SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <small>(month, day, year)</small>	

EEOC Form 161-B (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Yesenia Guitron  
C/O Yosef Peretz  
22 Battery Street 3202  
San Francisco, CA 94111

From: San Francisco District Office  
350 The Embarcadero  
Suite 500  
San Francisco, CA 94105

☐

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

550-2010-01590

Eric C. Darius,  
Intake Supervisor

(415) 625-5670

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

☐


The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)

  
Michael Baldonado,  
District Director

07/06/2010  
(Date Mailed)

cc:

Kristina Brown  
AA/EEO Officer  
WELLS FARGO  
333 Market Street  
Mail Code A0119-187  
San Francisco, CA 94105

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

**IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.**

Exhibit B

## \*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACTDFEH # **E200910M5561-00**

DFEH USE ONLY

## CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

**GUITRON, YESENIA**

TELEPHONE NUMBER (INCLUDE AREA CODE)

**(415)732-3777**

ADDRESS

**C/O PERETZ & ASSOCIATES, 22 BATTERY STREET, SUITE  
202**

CITY/STATE/ZIP

**SAN FRANCISCO, CA 94111**

COUNTY

**SAN FRANCISCO**

COUNTY CODE

**075**NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO  
DISCRIMINATED AGAINST ME:

NAME

**WELLS FARGO, N.A.**

TELEPHONE NUMBER (Include Area Code)

**(707)963-3607**

ADDRESS

**1107 MAIN STREET**

DFEH USE ONLY

CITY/STATE/ZIP

**SAINT HELENA, CA 94574**

COUNTY

**NAPA**

COUNTY CODE

**055**

NO. OF EMPLOYEES/MEMBERS (If known)

**150+**DATE MOST RECENT OR CONTINUING DISCRIMINATION  
TOOK PLACE (month, day, and year)**02/12/2010**

RESPONDENT CODE

**00**

THE PARTICULARS ARE:

I allege that on about or before  
**02/12/2010**, the following  
conduct occurred:☒ termination☐ laid off☐ demotion☒ harassment☐ genetic characteristics testing☐ constructive discharge (forced to quit)☐ impermissible non-job-related inquiry☐ denial of employment☐ denial of promotion☐ denial of transfer☐ denial of accommodation☒ failure to prevent discrimination or retaliation☒ retaliation☒ other (specify)☐ denial of family or medical leave☐ denial of pregnancy leave☐ denial of equal pay☐ denial of right to wear pants☐ denial of pregnancy accommodationDenial of Career and Compensation  
Opportunitiesby **WELLS FARGO, N.A.**

because of:

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

☒ sex☐ age☐ religion☐ race/color☐ national origin/ancestry☒ marital status☐ sexual orientation☐ association☐ disability (physical or mental)☐ medical condition (cancer or

generic characteristic

☒ other (specify)☐ retaliation for engaging in protected

activity or requesting a protected

leave or accommodation

Retaliation for Filing ComplaintsState of what you  
believe to be the  
reason(s) for  
discriminationCLAIMANT WAS SUBJECTED TO ONGOING AND CONTINUOUS UNWELCOMED, UNPROFESSIONAL AND INSULTING COMMENTS RELATED TO HER STATUS  
AS A SINGLE WOMAN AND A SINGLE MOTHER. THIS INCLUDED, BUT WAS NOT LIMITED TO, THE FOLLOWING CONDUCT BY WELLS FARGO AND ITS  
EMPLOYEES, SPECIFICALLY ISOOK PARK AND PAM RUBIO: 1) REQUIREMENTS THAT CLAIMANT WEAR SHORT SKIRTS AND SHAKE HER SKIRT TO  
ATTRACT CUSTOMERS; 2) DEMAND THAT CLAIMANT WEAR SHORT DRESSES AND SHOW OFF HER LEGS AND GO WALK TO TOWN TO ATTRACT BUSINESS;  
3) REQUESTING CLAIMANT TO CONVINCE HER "BOYFRIENDS AND ADMIRERS" TO OPEN BANK ACCOUNTS AS A SALE METHOD; 4) HARASSING CLAIMANTI wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit  
the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act,  
whichever is earlier.I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process  
or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to  
matters stated on my information and belief, and as to those matters I believe it to be true.Dated **06/18/2010**At **Napa**DATE FILED: **06/18/2010**DFEH 300-03a (02/08)  
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

**\*\*\* EMPLOYMENT \*\*\***

**COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACT**

DFEH #

**E200910M5561-00**

DFEH USE ONLY

State of what you  
believe to be the  
reason(s) for  
discrimination

CLAIMANT WAS SUBJECTED TO ONGOING AND CONTINUOUS UNWELCOMED, UNPROFESSIONAL AND INSULTING COMMENTS RELATED TO HER STATUS AS A SINGLE WOMAN AND A SINGLE MOTHER. THIS INCLUDED, BUT WAS NOT LIMITED TO, THE FOLLOWING CONDUCT BY WELLS FARGO AND ITS EMPLOYEES, SPECIFICALLY ISOOK PARK AND PAM RUBIO: 1) REQUIREMENTS THAT CLAIMANT WEAR SHORT SKIRTS AND SHAKE HER SKIRT TO ATTRACT CUSTOMERS; 2) DEMAND THAT CLAIMANT WEAR SHORT DRESSES AND SHOW OFF HER LEGS AND GO WALK TO TOWN TO ATTRACT BUSINESS; 3) REQUESTING CLAIMANT TO CONVINCE HER "BOYFRIENDS AND ADMIRERS" TO OPEN BANK ACCOUNTS AS A SALE METHOD; 4) HARASSING CLAIMANT ABOUT WHO SHE WAS DATING OR SEEING; 5) ACCUSING AND CONSULTING CLAIMANT FOR DRESSING TOO PROVOCATIVELY WHILE OTHER EMPLOYEES, INCLUDING MS. RUBIO DRESSED IN VIOLATION OF DRESS CODE; 6) REPEATEDLY ACCUSING CLAIMANT OF HAVING AN AFFAIR WITH COWORKERS; 7) SCOLDING CLAIMANT FOR BEING TARDY WHEN SHE WAS TAKING CARE OF HER CHILDREN; 8) HARASSING CLAIMANT ABOUT BEING ABSENT TO CARE FOR HER CHILDREN; 9) DENYING CLAIMANT PROTECTED FAMILY LEAVE; 10) GIVING CLAIMANT POOR PERFORMANCE REVIEWS AS A RESULT OF ISSUES RELATED TO BEING A SINGLE MOTHER; AND 11) REQUIRING CLAIMANT TO WORK AFTER HOURS IN DISREGARD AND IN SPRITE OF HER STATUS AS A SINGLE MONTH.

ADDITIONALLY, CLAIMANT CONTENDS THAT SHE WAS DENIED ACCOMMODATIONS AS A RESULT OF HER STATUS. CLAIMANT IS INFORMED AND BELIEVES THAT OTHER EMPLOYEES WHO WERE NOT SINGLE WOMEN AND/OR SINGLE MOTHERS WERE NOT SUBJECT TO THIS HARASSMENT, DISCRIMINATION AND REFUSAL TO ACCOMMODATE CLAIMANT.



**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1515 CLAY STREET, SUITE 701, OAKLAND, CA 94612  
(510) 622-2941  
www.dfeh.ca.gov



June 18, 2010

GUITRON, YESENIA  
C/O PERETZ & ASSOCIATES, 22 BATTERY STREET, SUITE  
202  
SAN FRANCISCO, CA 94111

RE: E200910M5561-00  
GUITRON/WELLS FARGO, N.A.

Dear GUITRON, YESENIA:

**NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 18, 2010 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure  
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in black ink, reading "Allan H. Pederson". The signature is fluid and cursive, with the first name "Allan" and last name "Pederson" clearly legible.

Allan Pederson  
District Administrator

cc: Case File

SUSAN WILLIAMS-EAGLES  
HUMAN RESOURCES MANAGER  
WELLS FARGO BANK, N.A.  
2804 GATEWAY OAKS, #260  
SACRAMENTO, CA 95833-3509

## \*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACTDFEH # **E200910M5561-02**

DFEH USE ONLY

## CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

**GUISTRON, YESENIA**

TELEPHONE NUMBER (INCLUDE AREA CODE)

**(415)732-3777**

ADDRESS

**C/O PERETZ & ASSOCIATES, 22 BATTERY STREET, SUITE  
202**

CITY/STATE/ZIP

**SAN FRANCISCO, CA, 94111**

COUNTY

**SAN FRANCISCO**

COUNTY CODE

**075**NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO  
DISCRIMINATED AGAINST ME:

NAME

**RUBIO, PAM**

TELEPHONE NUMBER (Include Area Code)

**(707)963-3607**

ADDRESS

**1107 MAIN STREET**

DFEH USE ONLY

CITY/STATE/ZIP

**SAINT HELENA, CA 94574**

COUNTY

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

**150+**DATE MOST RECENT OR CONTINUING DISCRIMINATION  
TOOK PLACE (month, day, and year)**02/12/2010**

RESPONDENT CODE

**02**

THE PARTICULARS ARE:

**I allege that on about or before  
02/12/2010, the following  
conduct occurred:**

<input checked="" type="checkbox"/> termination	<input type="checkbox"/> denial of employment	<input type="checkbox"/> denial of family or medical leave
<input type="checkbox"/> laid off	<input type="checkbox"/> denial of promotion	<input type="checkbox"/> denial of pregnancy leave
<input type="checkbox"/> demotion	<input type="checkbox"/> denial of transfer	<input type="checkbox"/> denial of equal pay
<input checked="" type="checkbox"/> harassment	<input type="checkbox"/> denial of accommodation	<input type="checkbox"/> denial of right to wear pants
<input type="checkbox"/> genetic characteristics testing	<input checked="" type="checkbox"/> failure to prevent discrimination or retaliation	<input type="checkbox"/> denial of pregnancy accommodation
<input type="checkbox"/> constructive discharge (forced to quit)	<input checked="" type="checkbox"/> retaliation	
<input type="checkbox"/> impermissible non-job-related inquiry	<input checked="" type="checkbox"/> other (specify) <u>Denial of Career and Compensation Opportunities</u>	

by **RUBIO, PAM****MANAGER**

because of :

Name of Person	Job Title (supervisor/manager/personnel director/etc.)
<input checked="" type="checkbox"/> sex	<input type="checkbox"/> disability (physical or mental)
<input type="checkbox"/> age	<input type="checkbox"/> medical condition (cancer or generic characteristic)
<input type="checkbox"/> religion	<input type="checkbox"/> retaliation for engaging in protected activity or requesting a protected leave or accommodation
<input type="checkbox"/> race/color	<input checked="" type="checkbox"/> other (specify) <u>Retaliation for Filing Complaints</u>
<input type="checkbox"/> national origin/ancestry	
<input checked="" type="checkbox"/> marital status	
<input type="checkbox"/> sexual orientation	
<input type="checkbox"/> association	

**State of what you  
believe to be the  
reason(s) for  
discrimination**

CLAIMANT WAS SUBJECTED TO ONGOING AND CONTINUOUS UNWELCOMED, UNPROFESSIONAL AND INSULTING COMMENTS RELATED TO HER STATUS AS A SINGLE WOMAN AND A SINGLE MOTHER. THIS INCLUDED, BUT WAS NOT LIMITED TO, THE FOLLOWING CONDUCT BY WELLS FARGO AND ITS EMPLOYEES, SPECIFICALLY ISOOK PARK AND PAM RUBIO: 1) REQUIREMENTS THAT CLAIMANT WEAR SHORT SKIRTS AND SHAKE HER SKIRT TO ATTRACT CUSTOMERS; 2) DEMAND THAT CLAIMANT WEAR SHORT DRESSES AND SHOW OFF HER LEGS AND GO WALK TO TOWN TO ATTRACT BUSINESS; 3) REQUESTING CLAIMANT TO CONVINCE HER "BOYFRIENDS AND ADMIRERS" TO OPEN BANK ACCOUNTS AS A SALE METHOD; 4) HARASSING CLAIMANT

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated **06/18/2010**At **Napa**DATE FILED: **06/18/2010**DFEH-300-03c (02/08)  
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

## \*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACT

DFEH #

E200910M5561-02

DFEH USE ONLY

State of what you  
believe to be the  
reason(s) for  
discrimination

CLAIMANT WAS SUBJECTED TO ONGOING AND CONTINUOUS UNWELCOMED, UNPROFESSIONAL AND INSULTING COMMENTS RELATED TO HER STATUS AS A SINGLE WOMAN AND A SINGLE MOTHER. THIS INCLUDED, BUT WAS NOT LIMITED TO, THE FOLLOWING CONDUCT BY WELLS FARGO AND ITS EMPLOYEES, SPECIFICALLY ISOOK PARK AND PAM RUBIO: 1) REQUIREMENTS THAT CLAIMANT WEAR SHORT SKIRTS AND SHAKE HER SKIRT TO ATTRACT CUSTOMERS; 2) DEMAND THAT CLAIMANT WEAR SHORT DRESSES AND SHOW OFF HER LEGS AND GO WALK TO TOWN TO ATTRACT BUSINESS; 3) REQUESTING CLAIMANT TO CONVINCE HER "BOYFRIENDS AND ADMIRERS" TO OPEN BANK ACCOUNTS AS A SALE METHOD; 4) HARASSING CLAIMANT ABOUT WHO SHE WAS DATING OR SEEING; 5) ACCUSING AND CONSULTING CLAIMANT FOR DRESSING TOO PROVOCATIVELY WHILE OTHER EMPLOYEES, INCLUDING MS. RUBIO DRESSED IN VIOLATION OF DRESS CODE; 6) REPEATEDLY ACCUSING CLAIMANT OF HAVING AN AFFAIR WITH COWORKERS; 7) SCOLDING CLAIMANT FOR BEING TARDY WHEN SHE WAS TAKING CARE OF HER CHILDREN; 8) HARASSING CLAIMANT ABOUT BEING ABSENT TO CARE FOR HER CHILDREN; 9) DENYING CLAIMANT PROTECTED FAMILY LEAVE; 10) GIVING CLAIMANT POOR PERFORMANCE REVIEWS AS A RESULT OF ISSUES RELATED TO BEING A SINGLE MOTHER; AND 11) REQUIRING CLAIMANT TO WORK AFTER HOURS IN DISREGARD AND IN SPRITE OF HER STATUS AS A SINGLE MONTH.

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**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1515 CLAY STREET, SUITE 701, OAKLAND, CA 94612  
(510) 622-2941  
www.dfeh.ca.gov



June 18, 2010

GUITRON, YESENIA  
C/O PERETZ & ASSOCIATES, 22 BATTERY STREET, SUITE  
202  
SAN FRANCISCO, CA, 94111

RE: E200910M5561-02  
GUITRON/RUBIO, PAM. AS AN INDIVIDUAL

Dear GUITRON, YESENIA:

**NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 18, 2010 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure  
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in black ink, reading "Allan H. Pederson". The signature is fluid and cursive, with the first name "Allan" and last name "Pederson" clearly legible.

Allan Pederson  
District Administrator

cc: Case File

PAM RUBIO  
MANAGER  
WELLS FARGO  
1107 MAIN STREET  
SAINT HELENA, CA 94574



Exhibit C

EEOC Form 5 (5/01)

<b>CHARGE OF DISCRIMINATION</b> <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To:      Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA  <input checked="" type="checkbox"/> EEOC         </div> <div>550-2010-01250</div> </div>	
<b>California Department Of Fair Employment &amp; Housing</b> and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) <b>Judi Klosek</b>		Home Phone (Incl. Area Code) <b>(415) 732-3777</b>	Date of Birth <b>09-17-1944</b>
Street Address      City, State and ZIP Code <b>C/O Yosef Peretz, 22 Battery Street #202, San Francisco, CA 94111</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>WELLS FARGO</b>		No. Employees, Members <b>500 or More</b>	Phone No. (Include Area Code)
Street Address      City, State and ZIP Code <b>Hr Director, 1107 Main Street, Saint Helena, CA 94574</b>			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address      City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="margin-right: 10px;"><input type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify below.)</div> </div>			DATE(S) DISCRIMINATION TOOK PLACE Earliest      Latest  <input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). <b>See attached</b>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.  <div style="display: flex; justify-content: space-between;"> <div> <b>4/29/10</b>  <small>Date</small> </div> <div> <b>Yosef Peretz, Esq. for Judi Klosek</b>  <small>Charging Party Signature</small> </div> </div>		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <small>(month, day, year)</small>	

EEOC Form 161-B (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Judi Klosek  
C/O Yosef Peretz  
22 Battery Street #202  
San Francisco, CA 94111

From: San Francisco District Office  
350 The Embarcadero  
Suite 500  
San Francisco, CA 94105

☐

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

550-2010-01250

Adriana Gomez,  
Investigator

(415) 625-5659

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

☒

The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

☐


The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)

  
for Michael Baldonado,  
District Director

5-6-10

(Date Mailed)

cc: WELLS FARGO  
Hr Director  
1107 Main Street  
Saint Helena, CA 94574

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

**IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.**

Exhibit D

## \*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACTDFEH # E200910M5457-00

DFEH USE ONLY

## CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

**KLOSEK, JUDI**

TELEPHONE NUMBER (INCLUDE AREA CODE)

**(415)732-3777**

ADDRESS

**22 BATTERY STREET, SUITE 202**

CITY/STATE/ZIP

**SAN FRANCISCO, CA 94111**

COUNTY

**SAN FRANCISCO**

COUNTY CODE

**075**NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO  
DISCRIMINATED AGAINST ME:

NAME

**WELLS FARGO, N.A.**

TELEPHONE NUMBER (Include Area Code)

**(707)963-3607**

ADDRESS

**1107 MAIN STREET**

DFEH USE ONLY

CITY/STATE/ZIP

**SAINT HELENA, CA 94574**

COUNTY

**NAPA**

COUNTY CODE

**055**

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION  
TOOK PLACE (month, day, and year)**04/23/2010**

RESPONDENT CODE

**00**

THE PARTICULARS ARE:

I allege that on about or before  
04/23/2010, the following  
conduct occurred:☐ termination☐ denial of employment☐ denial of family or medical leave☐ laid off☒ denial of promotion☐ denial of pregnancy leave☐ demotion☐ denial of transfer☐ denial of equal pay☒ harassment☐ denial of accommodation☐ denial of right to wear pants☐ genetic characteristics testing☒ failure to prevent discrimination or retaliation☐ denial of pregnancy accommodation☐ constructive discharge (forced to quit)☒ retaliation☐ impermissible non-job-related inquiry☒ other (specify) Denial of career & comps. opportunitiesby **WELLS FARGO, N.A.**

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of :

☐ sex☒ national origin/ancestry☐ disability (physical or mental)☒ retaliation for engaging in protected☒ age☐ marital status☐ medical condition (cancer or

activity or requesting a protected

☐ religion☐ sexual orientation☐ generic characteristic

leave or accommodation

☐ race/color☒ association☒ other (specify) Retaliation for making complaintsState of what you  
believe to be the  
reason(s) for  
discriminationMS. KLOSEK BELIEVES SHE WAS HARASSED, RETALIATED AND DISCRIMINATED AGAINST BECAUSE OF HER AGE AND BECAUSE OF HER NATIONAL  
ORIGIN. MS. KLOSEK IS A CAUCASIAN WOMEN FROM THE UNITED STATES WHO IS OVER THE AGE OF 40 IN A WORK ENVIRONMENT WHERE THE  
MAJORITY OF THE STAFF ARE WELL BELOW 40 YEARS OLD AND OF HISPANIC ORIGIN. MS. KLOSEK BELIEVES SHE WAS RETALIATED AND  
DISCRIMINATED AGAINST FOR PROTESTING UNLAWFUL AND UNETHICAL COMPANY POLICIES AND PRACTICES, FOR SUPPORTING AND BEING  
ASSOCIATED WITH OTHER EMPLOYEES THAT PROTESTED ON UNLAWFUL AND UNETHICAL PRACTICES, AND FOR COMPLYING WITH AN INVESTIGATIONI wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit  
the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act,  
whichever is earlier.I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process  
or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to  
matters stated on my information and belief, and as to those matters I believe it to be true.Dated **04/24/2010**At **Napa**DATE FILED: **04/24/2010**

DFEH-300-03o (02/08)

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA



\*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACT

DFEH #

E200910M5457-00

DFEH USE ONLY

State of what you  
believe to be the  
reason(s) for  
discrimination

MS. KLOSEK BELIEVES SHE WAS HARASSED, RETALIATED AND DISCRIMINATED AGAINST BECAUSE OF HER AGE AND BECAUSE OF HER NATIONAL ORIGIN. MS. KLOSEK IS A CAUCASIAN WOMEN FROM THE UNITED STATES WHO IS OVER THE AGE OF 40 IN A WORK ENVIRONMENT WHERE THE MAJORITY OF THE STAFF ARE WELL BELOW 40 YEARS OLD AND OF HISPANIC ORIGIN. MS. KLOSEK BELIEVES SHE WAS RETALIATED AND DISCRIMINATED AGAINST FOR PROTESTING UNLAWFUL AND UNETHICAL COMPANY POLICIES AND PRACTICES, FOR SUPPORTING AND BEING ASSOCIATED WITH OTHER EMPLOYEES THAT PROTESTED ON UNLAWFUL AND UNETHICAL PRACTICES, AND FOR COMPLYING WITH AN INVESTIGATION INTO THOSE POLICIES AND PRACTICES.

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1515 CLAY STREET, SUITE 701, OAKLAND, CA 94612  
(510) 622-2941  
www.dfeh.ca.gov



April 24, 2010

KLOSEK, JUDI  
22 BATTERY STREET, SUITE 202  
SAN FRANCISCO, CA 94111

RE: E200910M5457-00  
KLOSEK/WELLS FARGO, N.A.

Dear KLOSEK, JUDI:

**NOTICE OF CASE CLOSURE**

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective April 24, 2010 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in black ink, reading "Allan H. Pederson". The signature is fluid and cursive, with the first name "Allan" and last name "Pederson" clearly legible.

Allan Pederson  
District Administrator

cc: Case File

SUSAN EAGLE-WILLIAMS  
HUMAN RESOURCES MANAGER  
WELLS FARGO, N.A.  
2804 GATEWAY OAKS  
SACRAMENTO, CA 95833

## \*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACT

DFEH #

E200910M5457-01

DFEH USE ONLY

## CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

TELEPHONE NUMBER (INCLUDE AREA CODE)

KLOSEK, JUDI

(415)732-3777

ADDRESS

22 BATTERY STREET, SUITE 202

CITY/STATE/ZIP

SAN FRANCISCO, CA, 94111

COUNTY

SAN FRANCISCO

COUNTY CODE

075

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO  
DISCRIMINATED AGAINST ME:

NAME

TELEPHONE NUMBER (Include Area Code)

RUBIO, PAM

(707)963-3607

ADDRESS

1107 MAIN STREET

DFEH USE ONLY

CITY/STATE/ZIP

SAINT HELENA, CA 94574

COUNTY

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION  
TOOK PLACE (month, day, and year)

RESPONDENT CODE

04/23/2010

01

THE PARTICULARS ARE:

I allege that on about or before  
04/23/2010, the following  
conduct occurred:

<input type="checkbox"/> termination	<input type="checkbox"/> denial of employment	<input type="checkbox"/> denial of family or medical leave
<input type="checkbox"/> laid off	<input checked="" type="checkbox"/> denial of promotion	<input type="checkbox"/> denial of pregnancy leave
<input type="checkbox"/> demotion	<input type="checkbox"/> denial of transfer	<input type="checkbox"/> denial of equal pay
<input checked="" type="checkbox"/> harassment	<input type="checkbox"/> denial of accommodation	<input type="checkbox"/> denial of right to wear pants
<input type="checkbox"/> genetic characteristics testing	<input checked="" type="checkbox"/> failure to prevent discrimination or retaliation	<input type="checkbox"/> denial of pregnancy accommodation
<input type="checkbox"/> constructive discharge (forced to quit)	<input checked="" type="checkbox"/> retaliation	
<input type="checkbox"/> impermissible non-job-related inquiry	<input checked="" type="checkbox"/> other (specify) <u>Denial of career &amp; comps. opportunities</u>	

by RUBIO, PAM

BRANCH MANAGER

because of :

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

<input type="checkbox"/> sex	<input checked="" type="checkbox"/> national origin/ancestry	<input type="checkbox"/> disability (physical or mental)	<input checked="" type="checkbox"/> retaliation for engaging in protected
<input checked="" type="checkbox"/> age	<input type="checkbox"/> marital status	<input type="checkbox"/> medical condition (cancer or	activity or requesting a protected
<input type="checkbox"/> religion	<input type="checkbox"/> sexual orientation	generic characteristic	leave or accommodation
<input type="checkbox"/> race/color	<input checked="" type="checkbox"/> association	<input checked="" type="checkbox"/> other (specify) <u>Retaliation for making complaints</u>	

State of what you  
believe to be the  
reason(s) for  
discrimination

MS. KLOSEK BELIEVES SHE WAS HARASSED, RETALIATED AND DISCRIMINATED AGAINST BECAUSE OF HER AGE AND BECAUSE OF HER NATIONAL ORIGIN. MS. KLOSEK IS A CAUCASIAN WOMEN FROM THE UNITED STATES WHO IS OVER THE AGE OF 40 IN A WORK ENVIRONMENT WHERE THE MAJORITY OF THE STAFF ARE WELL BELOW 40 YEARS OLD AND OF HISPANIC ORIGIN. MS. KLOSEK BELIEVES SHE WAS RETALIATED AND DISCRIMINATED AGAINST FOR PROTESTING UNLAWFUL AND UNETHICAL COMPANY POLICIES AND PRACTICES, FOR SUPPORTING AND BEING ASSOCIATED WITH OTHER EMPLOYEES THAT PROTESTED ON UNLAWFUL AND UNETHICAL PRACTICES, AND FOR COMPLYING WITH AN INVESTIGATION

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 04/24/2010

At Napa

DATE FILED: 04/24/2010

DFEH-300-03a (02/08)

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA

\*\*\* EMPLOYMENT \*\*\*

COMPLAINT OF DISCRIMINATION UNDER  
THE PROVISIONS OF THE CALIFORNIA  
FAIR EMPLOYMENT AND HOUSING ACT

DFEH #

E200910M5457-01

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April 24, 2010

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SAN FRANCISCO, CA, 94111

RE: E200910M5457-01  
KLOSEK/RUBIO, PAM. AS AN INDIVIDUAL

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Sincerely,



Allan Pederson  
District Administrator

cc: Case File

SUSAN EAGLE-WILLIAMS  
HUMAN RESOURCES CONSULTANT  
WELLS FARGO  
3640 NORTHGATE BLVD.  
SACRAMENTO, CA 95834